

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

ePLUS INC.,)
)
 Plaintiff,) Civil Action No. 3:09-CV-620 (REP)
)
 v.)
)
LAWSON SOFTWARE, INC.,)
)
)
)
 Defendant.)

**ePLUS INC.'S MOTION TO ENFORCE COURT'S ORDER OF FEBRUARY 21, 2012,
COMPELLING PRODUCTION OF DOCUMENTS AND FINDING WAIVER OF
ATTORNEY-CLIENT PRIVILEGE, AND FOR SANCTIONS**

Pursuant to Fed. R. Civ. P. 37 and this Court's prior Order of February 21, 2012 ("February 21 Order"), Plaintiff *ePlus Inc.* ("ePlus") respectfully moves that this Court enter an Order enforcing the Court's February 21 Order, and requiring that Defendant *Lawson Software, Inc.* ("Lawson") produce all documents required by that Order, including all documents identified in the accompanying Appendix A, Tabs (i)-(iii), and all attachments to emails or other communications that Lawson has produced in response to the February 21 Order.

ePlus further requests that the Court call a status conference, at its earliest convenience, to schedule a date for the conduct of the contempt hearing in this matter.

This motion is necessitated because Lawson has, notwithstanding several requests from *ePlus* and meet and confer discussions between the parties, withheld from production thousands of documents that it was ordered to produce, including: (i) at least 5,000 documents that pertain to the subject matter of Lawson's development of the RQC module; (ii) at least 50 documents that pertain

to communications between non-attorneys reflecting legal advice; and (iii) at least 300 documents that do not contain an author or a recipient. For example, even though this Court specifically held that Lawson had waived privilege for documents pertaining to the development of the “RQC module,” Lawson continues to withhold documents where its own descriptions on its privilege log state that they relate to, e.g., the “*redesign of RSS*,” “*RQC redesign*,” or “*RSS to RQC re-design infringement*.” In addition, because Lawson did not produce the metadata with its production, it is impossible for *ePlus* to determine whether Lawson also withheld additional responsive documents. For example, *ePlus* cannot conclusively determine whether Lawson has produced all the attachments to emails it has now produced in response to the Court’s Order. The resolution of these issues is critical to creating a full record for this contempt proceeding.

In addition to compelling production of these documents, this Court should also impose sanctions for Lawson’s non-compliance with the Court’s Order, including, at a minimum, the payment of *ePlus*’s costs and reasonable attorney fees incurred in connection with this motion. The Court should also consider any further relief it believes is justified, including any measures necessary to ensure compliance with the Court’s Orders. A Brief in support hereof is being filed under seal.

Respectfully Submitted,

September 13, 2012

/s/

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CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of September 2012, I will electronically file the foregoing:

***ePLUS INC.'S MOTION TO ENFORCE COURT'S ORDER OF FEBRUARY 21, 2012,
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with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) via e-mail to the following:

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